IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

-

WRIT PETITION NO : 24035 of 1995

Between:

Dr. Mrs. Lavanya Mukharjee, W/o. Late S.K.Mukherjee,
Resident of Visakhapatnam, VISAKHAPATNAM.

..... PETITIONER

AND

1 The Government of A.P.
rep. by its Secretary Revenue (UC.III) Department Secretariat Buildings
Hyderabad
2 The Commissioner,
Urban Land Ceiling, Hyderabad
3 The Special Officser-cum-Competent Authority,
Urban Land Ceiling, Visakhapatnam

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of certiorari or any other appropriate writ order or direction calling for the records relating to the Memo.No.48/UC/III/80-15 of the Govt of A.P-Revenue (UC.III) Dept.dt.2.3.1995 and quash the same and consequently direct the respondents to consider and accord exemption of the land in TS.NOS.77,77A AND 77C in Waltair ward in Visakhapatnam for the purpose of constructing a Nursing home

Counsel for the Petitioner: MR.T.S.ANAND, Advocate

Counsel for the Respondents: GP FOR ASSIGNMENTS

The Court made the following :

HON'BLE SRI JUSTICE BILAL NAZKI

W.P.NO. 24035 OF 1995

ORDER:

Heard learned counsel for the parties. An application was moved by the petitioner for grant of exemption under Section 20 (1) (a) of the Urban Land (Ceiling and Regulations) Act, 1976 (for short "the Act") for construction of a Nursing Home in an extent of 632 sq. meters in T.S.Nos. 77, 77-A and 77-C situated at Waltair ward of Visakhapatnam Municipal Corporation, which was declared surplus. The application has been rejected by the Government solely on the ground that since a notification under Sections 10 (3), 10 (5) and 11 (8) of the Act has been issued, no exemption could be granted. The learned counsel for the petitioner submits that it is only after the Government declares certain land to be surplus under Section 10 of the Act that exemption can be sought and passing of an order under Section 10 of the Act does not disentitle a party to make an

application for exemption and the matter has been considered by the Supreme Court in a judgment reported in *Special Officer and Competent authority, Urban Land Ceilings, Hyd. Vs. P.S. Rao* (2000 (2) ALD 48) in which the Supreme Court held that an application for grant of exemption can be maintained even after vesting of excess land in Government. Following the same judgment, the impugned order is quashed and the writ petition is accordingly allowed. The Government is directed to consider the application of the petitioner afresh keeping in view the observations made in this judgment and also the law laid down by the Supreme Court in the above cited judgment. Till the Government decides the matter, status quo shall be maintained. No costs.

KR 5.8.2004

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gu0pta, the Chief Justice on this the Thursday, the day of Fifth day of August, Two Thousand and Four.

Sd/-

Asst. Registrar

//True Copy//

Section Officer

To

1 The Government of A.P.

rep. by its Secretary Revenue (UC.III) Department Secretariat Buildings Hyderabad

2 The Commissioner,
Urban Land Ceiling, Hyderabad

3 The Special Officser-cum-Competent Authority,
Urban Land Ceiling, Visakhapatnam

4. 2CCs to GP for Assignments, High Court buildings, Hyderabad (Out)

5. 2CD copies